IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

Con.Case(C).No. 619 of 2006(S)

(NON COMPLIANCE OF THE ORDER IN WPC.12098/2006 DATED 28TH APRIL 2006)

PETITIONER/PETITIONER

MALABAR EDUCATIONAL AND CHARITABLE
TRUST, REPRESENTED BY THE MANAGING TRUSTEE,
VALSAN MATATHIL, S/O.A.V.NARAYANAN NAMBIAR,
AGED 38 YEARS, YOGASALA ROAD, KANNUR-670 001.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENT/ IST RESPONDENT

LIDA JACOB, W/O.JACOB PUNNAN,
AGED 58 YEARS, SECRETARY TO GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT SECRETARIAT, TRIVANDRUM.***(*SUBSTITUTED***)

(**THE NAME OF THE RESPONDENT IS SUBSTITUTED AS
J**AMES VARGHESE, SECRETARY TO GOVERNMENT, DEPARTMENT OF GENERAL EDUCATION, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM** AS PER ORDER IN I.A.No. 459 of 2007 DATED 06.09.2007.)*

BY ADVOCATE GENERAL SHRI C.P. SUDHAKARAPRASAD.
BY GOVERNMENT PLEADER SHRI T.B. HOOD.

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSIONON 06/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

.....

CONTEMPT CASE (C) No. 619 OF 2006

.....

Dated this the 6th September, 2007

J U D G M E N T

H.L. Dattu, C.J.:

The complainant before us, is the petitioner in the Writ Petition(C) No. 12098 of 2006. In this Contempt Case, the complainant alleges that the respondent has wilfully and deliberately disobeyed the interim order passed by this Court on 28th April, 2006 and, therefore a request is made in this Contempt Case, that appropriate contempt proceedings may be taken against the respondent/contemnor. The learned single Judge, before whom the Contempt Case was filed, was of the opinion that the complainant has made out a prima facie case and accordingly, has referred the matter to this court for initiating further proceedings.

2. The respondent has entered appearance through the learned Advocate General. The respondent has also filed his/her affidavit.

3. The matter had been adjourned from time to time only to facilitate the respondent to re-think and if it is possible to retrace their steps.

4. Learned Advocate General appearing for the respondent/contemnor, after arguing the matter for quite sometime, has thought it fit to file an affidavit of the respondent/contemnor. In that affidavit, it is stated that the respondent will now withdraw the order passed on 09.05.2006 and then pass fresh orders as directed by this court on 28thApril, 2006. Further, the respondent/contemnor has offered his/her unconditional apology for the inconvenience caused to the complainant and to this court.

5. In our view, by accepting the affidavit and permitting the respondent/contemnor to withdraw the order passed on 09.05.2006 and further by permitting them to pass fresh orders, as directed by this court on 28th April,

2006, no prejudice will be caused to the complainant. Therefore, we are inclined to accept the affidavit filed by the respondent/contemnor and accordingly we intend to grant the request made in the affidavit. In view of the above, the following:

O R D E R

i) The affidavit filed by the respondent/contemnor is taken on record.

ii) The respondent/contemnor is permitted to withdraw his/her earlier order dated 09.05.2006.

iii) The respondent/contemnor shall pass fresh orders in accordance with the interim order passed by this court in W.P.(C) No.12098 of 2006 dated 28th April, 2006 within a period of one month from today.

iv) The un-conditional apology offered by the respondent/contemnor is accepted.

v) Further proceedings in this Contempt Case are dropped.

vi) Liberty is reserved to the complainant to approach this court, if need arises in future.

vii) I.A.NO. 459 of 2007 is also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk/dk